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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,610	07/12/2001	Wayne D. Jung	JJL-9602F	2973
7590	06/23/2006		EXAMINER	
Loudermilk & Associates P O Box 3607 Los Altos, CA 94024-0607				LEWIS, RALPH A
		ART UNIT		PAPER NUMBER
		3732		

DATE MAILED: 06/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/904,610	JUNG ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ralph A. Lewis	3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.  
 2a) This action is **FINAL**.                  2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 3-118 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_ is/are allowed.  
 6) Claim(s) 3-118 is/are rejected.  
 7) Claim(s) \_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/20/2001</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## Obvious-type Double Patenting Rejections

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 3-118 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over

claims 1-36 of U.S. Patent No. 5,745,229 (note particularly claims 24 & 26),  
claims 1-79 of U.S. Patent No. 5,759,030 (note particularly claims 30 & 32),  
claims 1-123 of U.S. Patent No. 5,851,113,  
claims 1-158 of U.S. Patent No. 5,871,351,  
claims 1-48 of U.S. Patent No. 5,880,826,  
claims 1-379 of U.S. Patent No. 5,883,708,  
claims 1-86 of U.S. Patent No. 5,926,262,  
claims 1-379 of U.S. Patent No. 6,040,902,  
claims 1-166 of U.S. Patent No. 6,188,471,  
claims 1-166 of U.S. Patent No. 6,222,620,  
claims 1-185 of U.S. Patent No. 6,233,047,  
claims 1-48 of U.S. Patent No. 6,239,868,  
claims 1-134 of U.S. Patent No. 6,249,340,  
claims 1-202 of U.S. Patent No. 6,254,385,  
claims 1-97 of U.S. Patent No. 6,264,470,  
claims 1-142 of U.S. Patent No. 6,271,913,  
claims 1-122 of U.S. Patent No. 6,307,629,  
claims 1-36 of U.S. Patent No. 6,381,017,  
claims 1-42 of U.S. Patent No. 6,417,917,

Art Unit: 3732

claims 1-76 of U.S. Patent No. 6,501,542,  
claims 1-42 of U.S. Patent No. 6,570,654,  
claims 1-38 of U.S. Patent No. 6,573,984,  
claims 1-20 of U.S. Patent No. 6,870,616, and  
claims 1-42 of U.S. Patent No. 6,950,189.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the ordinarily skilled artisan would have found it obvious to have set forth the previously patented inventions in the terms of presently pending claims. Merely, leaving out elements and using different terms to claim the previously claimed inventions would have been obvious to one of ordinary skill in the art.

### Prior Art

Applicant's information disclosure statement of August 20, 2001 has been considered and an initialed copy enclosed herewith.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 3732

Any inquiry concerning this communication should be directed to **Ralph Lewis** at telephone number **(571) 272-4712**. Fax (571) 273-8300. The examiner works a compressed work schedule and is unavailable every other Friday. The examiner's supervisor, Kevin Shaver, can be reached at (571) 272-4720.

R.Lewis  
June 19, 2006



Ralph A. Lewis  
Primary Examiner  
AU3732